

27



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/586,600	06/02/2000	Shuji Ono	3562-0101P	6151
7590 09/07/2005 Birch Stewart Kolasch & Birch LLP P O Box 747 Falls Church, VA 22040-0747			EXAMINER JONES, HEATHER R	
			ART UNIT 2615	PAPER NUMBER
DATE MAILED: 09/07/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/586,600

Applicant(s)

ONO, SHUJI

Examiner

Heather R. Jones

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED, (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 16-29 and 37-41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,9-13,30,31,33 and 34 is/are rejected.
- 7) ☒ Claim(s) 3-8,14,15,32,35 and 36 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 June 2000 and 23 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 25, 2005 has been entered.

### ***Response to Arguments***

2. Applicant's arguments filed July 25, 2005 have been fully considered but they are not persuasive. The Applicant challenged the Examiner's Official Notice in claim 10. However, a corresponding reference has been found and is applied in the rejection below.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 2, 9, 11-13, 30, 31, 33, and 34 are rejected under 35 U.S.C. 102(e) as being anticipated by Windle (U.S. Patent 6,606,117).

Regarding claim 1, Windle discloses a camera (202) comprising: an image data input unit (101) forming an image of a subject for photographing the subject (col. 5, lines 53-63); a condition storing unit (108 - col. 4, lines 39-42) storing a predetermined photographing condition (portrait template) relating to at least one of an expression and characteristic feature (a person's head) of an aimed object (a person) in the image of the subject; and a timing signal generator automatically outputting a timing signal when the subject itself satisfies the photographing condition (the subject itself is satisfying the photographing condition and nothing else is in its way, which means that the person's head is properly aligned with the portrait template) (Fig. 6; col. 7, lines 33-43; it is inherent that once the shutter button is pressed the timing signal generator will automatically output a timing signal to capture the image and the user activates the shutter button once a person's head is aligned correctly according to the template; even though the user activates the shutter button the timing signal generator will still automatically output a timing signal afterwards).

Regarding claim 2, Windle discloses all the limitations as previously discussed with respect to claim 1 as well as disclosing that the camera (202) further comprises an extractor (104) extracting data of an aimed object (a person) from the image of the subject based on an extracting condition (col. 6, lines 18-26), wherein the photographing condition includes a predetermined

condition (the person's head is properly aligned in the photograph) related to a desirable aimed object (a person) and the timing signal generator outputs the timing signal when the aimed object satisfies the photographing condition (Fig. 6; col. 7, lines 33-43; it is inherent that once the shutter button is pressed the timing signal generator will output a timing signal to capture the image and the user activates the shutter button once a person's head is aligned correctly according to the template).

Regarding claim **9**, Windle discloses all the limitations as previously discussed with respect to claim 1 including that the camera (202) further comprises an image-pickup control unit (104) controlling the input unit for photographing the image based on the timing signal (col. 5, lines 13-19; the processing unit 104 interprets the user's inputs, therefore the processing unit would control the input unit to capture the image once the shutter button is activated).

Regarding claim **11**, Windle discloses all the limitations as previously discussed with respect to claim 1 including that the camera (202) further comprises a recording unit (103) recording the image on a replaceable nonvolatile recording medium based on the timing signal (Fig. 1; col. 4, lines 5-7).

Regarding claim **12**, Windle discloses all the limitations as previously discussed with respect to claim 1 including that the camera (202) further comprises an alarm outputting an alarm signal (602) for notifying that the subject

satisfies the photographing condition based on the timing signal (Fig. 6, lines 33-43).

Regarding claim **13**, Windle discloses all the limitations as previously discussed with respect to claim 1 including that the photographing condition includes a plurality of photographing conditions (there are more than one template that may be chosen – Fig. 3), and the camera (202) further comprises a condition-setting unit (Fig. 3 shows a user being able to select which template they desire) previously selecting at least one of the photographing conditions (the portrait template), for photographing the image, from among the plurality of photographing conditions.

Regarding claims **30**, **31**, **33**, and **34**, these are method claims corresponding to the apparatus claims 1, 2, 9, and 11. Therefore, claims 30, 31, 33, and 34 are analyzed and rejected as previously discussed with respect to claims 1, 2, 9, and 11.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2615

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Windle as applied to claim 1 above, and further in view of Isoguchi et al. (U.S. Patent 4,881,127)

Regarding claim 10, Windle discloses all the limitations as previously discussed with respect to claim 1, except an illuminator illuminating the subject based on the timing signal.

Referring to the Isoguchi et al. reference, Isoguchi et al. discloses a camera comprising an illuminator illuminating the subject based on the timing signal (col. 25, lines 15-18).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have added an illuminator to illuminate the subject based on the timing signal as disclosed by Isoguchi et al. with the camera disclosed by Windle in order to assure that the image is adequately illuminated to obtain a high quality image.

***Allowable Subject Matter***

7. Claims 3-8, 14, 15, 32, 35, and 36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter: Prior art fails to teach or fairly suggest a camera or a method (in combination with the other elements claimed):

- a.      Wherein the extracting condition is based on depth information of the image indicating the distance to each part of the subject (claim 3).
- b.      Wherein the extractor detects data of a judgement location from the data of the aimed object in the image based on a detecting condition different from the extracting condition, the photographing condition includes a predetermined photographing condition related to a desirable judgement location, and the timing signal generator outputs the timing signal when the judgement location satisfies the photographing condition (claims 4 and 32).
- c.      Wherein the extractor extracts data of a plurality of the aimed objects from the image; and the timing signal generator outputs the timing signal when the plurality of aimed objects satisfy the photographing condition (claim 5).
- d.      Further comprising: an input condition determining unit determining an input condition for inputting the image based on information of the judgement location detected by the extractor; and an image-forming control unit controlling an input unit for forming the image of the subject based on the input condition (claims 14 and 35).
- e.      Further comprising an image processing unit processing the image based on information of the judgement location detected by the extractor (claims 15 and 36).



**Conclusion**


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Heather R. Jones whose telephone number is 571-272-7368. The examiner can normally be reached on Mon. - Thurs.: 7:00 am - 4:30 pm, and every other Fri.: 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Ometz can be reached on 571-272-7593. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Heather R Jones  
Examiner  
Art Unit 2615

HRJ  
September 2, 2005

  
DAVID L. OMETZ  
SUPERVISORY PATENT  
EXAMINER